

1 GREGORY P. O'HARA, CA BAR NO. 131963
2 gpoohara@thelen.com
3 DANIEL J. MULLER, CA BAR NO. 193396
dmuller@thelen.com
4 KARIN M. COGBILL, CA BAR NO. 244606
kcogbill@thelen.com
5 THELEN REID BROWN RAYSMAN & STEINER LLP
225 West Santa Clara Street, 12th Floor
6 San Jose, CA 95113
Telephone: (408) 292-5800
Facsimile: (408) 287-8040

7 Attorneys for Plaintiff
8 SAVE MART SUPERMARKETS
9

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12
13 SAVE MART SUPERMARKETS, d/b/a
FOOD MAXX, a California Corporation

14 Plaintiff,

15 vs.

16 WAL-MART REAL ESTATE BUSINESS
TRUST, a Delaware Statutory Trust, WAL-
17 MART STORES, INC., a Delaware
Corporation

18 Defendants.
19
20

Case No.: 08-03885

**[PROPOSED] ORDER TO FILE FIRST
AMENDED COMPLAINT FOR
DECLARATORY RELIEF,
ANTICIPATORY BREACH AND
INJUNCTIVE RELIEF**

21
22
23
24
25
26
27
28

1 IT IS HEREBY ORDERED THAT:

2 1. Plaintiff Save Mart Supermarkets may file the First Amended Complaint attached
3 to the Stipulation to File First Amended Complaint for Declaratory Relief, Anticipatory Breach
4 and Injunctive Relief; and

5 2. Wal-Mart Real Estate Business Trust shall not respond to the Complaint and
6 instead both Wal-Mart Real Estate Business Trust and Wal Mart Stores, Inc. shall respond to the
7 First Amended Complaint within sixty (60) days of service by Save Mart of a F.R.C.P. 4(d)
8 request for waiver of service.

9
10 Dated: August 28, 2008



11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28